

INTERNAL REVENUE SERVICE

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July 11, 2001

UILC 1362.00-00

[REDACTED]:

We are responding to correspondence, submitted on your behalf by [REDACTED] [REDACTED] which has been forwarded to us by the Atlanta Service Center staff. Based on the information submitted, you are requesting relief in order to establish January 6, 1997 as the effective date for your S corporation election. The information also asserts that you filed Form 2553 in January 1997, failed to receive confirmation of acceptance of S corporation status, and apparently took action six months after filing the election. Based on the facts provided by the Internal Revenue Service, it appears that four notification letters regarding your Form 2553 deficiency have been sent. The earliest of these letters was issued in December 1998, one month after the IRS received your late 1997 tax return.

Based on the *Instructions to Form 2553*, taxpayers are generally notified of acceptance or nonacceptance of their election within *three* months of date of filing (date mailed). More importantly, if the IRS questions whether the election was filed, acceptable proof of filing is (a) certified or registered mail receipt; (b) Form 2553 with an accepted stamp; (c) Form 2553 with stamped IRS received date; or (e) an IRS letter stating the election has been accepted.

Announcement 97-4 (copy enclosed) provides guidance on seeking relief for late S corporation elections. Generally, to request relief for a late or invalid S corporation election you must request a private letter ruling from the National Office. (In Revenue Procedure 97-48, the IRS provides special procedures that permit taxpayers in certain situations to obtain automatic late S corporation relief instead of applying for a private letter ruling. However, because your first tax return was filed late, you are precluded from automatic relief.) The procedures for requesting a ruling are set out in Revenue Procedure 2001-1 (copy enclosed). In addition, a proper user fee must be submitted along with your request. The fee for a ruling is \$6,000; however, taxpayers with gross income of less than \$1 million for the last 12-month taxable period qualify for a

reduced user fee in the amount of \$500. If your business qualifies for the reduced fee, your request must include a statement certifying gross income; otherwise, you will be billed the higher fee. Please format your ruling request as shown in Appendix B of Rev. Proc. 2001-1.

If you decide to submit a ruling request, please provide documents supporting your intention to be an S corporation, and include the proper user fee. Please refer your package to our office by adding the following to the address:

Attn: CC:PA:T
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Direct to: CC:PSI:B1
Room 5002

If you have computer web access, you may wish to visit www.irs.gov/smallbiz for specialized tax information, products, and forms relating to small businesses.

Please keep this letter with your tax records and feel free to provide a copy of it to your authorized representative. We hope that the above information proves helpful.

Sincerely yours,

/s/Dianna K. Miosi
DIANNA K. MIOSI
Chief, Branch 1
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures:

Announcement 97-4
Rev. Proc. 2001-1
Copy of submission